



CITY OF MANCHESTER
PLANNING AND COMMUNITY DEVELOPMENT

Planning & Land Use Management
Building Regulations
Code Enforcement Division
Community Improvement Program
Zoning Board of Adjustment

ZBA2020-096
Leon L. LaFreniere, AICP
Director

Pamela H. Goucher, AICP
Deputy Director Planning & Zoning

Michael J. Landry, PE, Esq.
Deputy Director Building Regulations

September 28, 2020

Amoskeag II Apartments, LLC
Attn: John Cronin, Esq.
722 Chestnut Street
Manchester, NH 03104


RE: 97 State Street B-2
Denial of Building Permit

Your application for a permit dated September 9, 2020 to extend a previously granted variance for two additional years, all as per documents submitted through September 9, 2020 and with non-compliance listed in the Zoning Review dated September 28, 2020 is hereby acknowledged.

According to Section(s) 14.02(B)4 Extension of Variance for Two Additional Years, of the Zoning Ordinance of the City of Manchester, New Hampshire, passed to be ordained on February 7, 2001, this is prohibited. Consequently, I have no authority to grant this permit. Permit is hereby DENIED.

Note: Conditional Use Permit Required for Parking

Further proceedings contemplated pertaining to this application must be pursuant to NH Revised Statutes Annotated 674:33 or the other statutory provisions relative to Zoning Boards of Adjustment, as may be appropriate.



Michael J. Landry, PE, Esq.
Deputy Director, Building Regulations

97 STATE STREET
Variance History

B-1 Case: ZBA2018-102

Construct two additional dwelling units within an existing ten unit multifamily structure, resulting in 12 units on a lot having less than the required 18,500 SF buildable lot area.

GRANTED

ZONING REVIEW

Reviewed By: Glenn Gagne

Date: September 28, 2020

Revised By:

Revision Date:

APPLICANT NAME: John Cronin, Esq. (Agent)
STREET ADDRESS: 97 State Street
ZONE: R-3 (Residential)

TELEPHONE: 603-624-4333
STREET STATUS: Accepted
MAP / LOT: 837 / 6
WARD: 3

OVERLAY DISTRICTS:

- ☐ Flood Plain
- ☐ Residential-PO
- ☐ Historic District (AMH, ACH)
- ☐ Airport Navigational Hazard
- ☐ Airport Approach
- ☐ Airport Noise
- ☐ Arena Overlay
- ☐ Lake Massabesic Protection Overlay
- ☐ Manchester Landfill Groundwater Management (ML-GMZ)

PLANNING DEPARTMENT/BOARD ACTION:

- ☐ Site Plan
- ☐ Subdivision
- ☐ Planned Development
- ☒ Conditional Use Permit
- ☐ Voluntary Merger
- ☐ Heritage Commission

DIMENSIONS	EXISTING	PROPOSED
Area of Lot (Square Feet)	16,998	16,998
Area of Building on Lot (Square Feet)	4,340	4,340
Number of Stories	3	3
Total Area of All Floors (Square Feet)	11,880	11,880

ARTICLE 5 - USES	PERMITTED PER	NOT PERMITTED PER	REMARKS
<input type="checkbox"/> Multifamily Dwelling (10 + 2 = 12 Units)	5.10 (A) 6		Supplementary Regs. Reference Sect. 8.04 - Minimum lot size for first three (3) units 5,000 SF, with minimum additional lot area of 1,500 SF for each unit after the first three (3) units.
<input checked="" type="checkbox"/> Extension of Variance for 2 additional years		14.02 (B) 4	Variance was initially granted on 12/13/18, #ZBA2018-102.

ARTICLE 6 DIMENSIONAL REQUIREMENTS	SECTION	ALLOWED/ REQUIRED	PROPOSED/ EXISTING	REMARKS
<input type="checkbox"/> Min. Buildable Lot Area	6.01	18,500 SF	16,998* SF	*BLA is minus utility & pasageway easement area. Granted by Variance #ZBA2018-102.
<input type="checkbox"/> Minimum Lot Front	6.02	50' (Min)	131.06'	OK
<input type="checkbox"/> Minimum Lot Width	6.02	50' (Min)	131.06'	OK
<input type="checkbox"/> Front Yard Setback - State St.	6.03 (A)	10' (Min)	10'	OK
<input type="checkbox"/> Street Yard Setback - Mulsey St.	6.03 (A)	10' Min)	0'	Existing N/C
<input type="checkbox"/> Side Yard Setback	6.03 (C)	10' (Min)	25'	OK
<input type="checkbox"/> Side Yard Setback Observed*	6.03 (C)	20' (Min)	45'	OK - *See also Section 6.03 (A)
<input type="checkbox"/> Lot Coverage (%)	6.04	75% (Max)	53%	OK
<input type="checkbox"/> Height in Feet	6.05	45' (Max)	Less	OK
<input type="checkbox"/> Height in Stories	6.05	3 (Max)	3	OK
<input type="checkbox"/> Floor Area Ratio	6.06	0.75 (Max)	0.70	OK

ZONING ITEM	SECTION	ALLOWED/ REQUIRED	PROPOSED	REMARKS
<input checked="" type="checkbox"/> Parking, No. of Spaces	10.03 (B)	18	14*	N/C - Conditional Use by the Planning Board.
<input type="checkbox"/> Parking, Setbacks	<input type="checkbox"/> 10.09 (A) <input type="checkbox"/> 10.09 (B)	- See Ord.	- See Plan	*Not counting 15 th space due to encroachment on row. Existing N/C
<input type="checkbox"/> Parking, Screening	10.07(K)4	N/R	-	-
<input type="checkbox"/> Parking, Paving	10.07 (E)	Required	Existing	OK
<input type="checkbox"/> Parking, Bumpers	10.07 (K)1	Required	See Plan	Existing No Change
<input type="checkbox"/> Parking, Layout	10.06 (A)	See Ord.	See Plan	OK
<input type="checkbox"/> Parking, Maneuvering	10.07(D)	On-Site	See Plan	Existing N/C
<input type="checkbox"/> Loading, Off-Street # of Spaces	10.05 (2)	1	1	OK
<input type="checkbox"/> Loading, Dimension of Area	10.06 (C)	12' x 50'	See Plan	Existing No Change
<input type="checkbox"/> Loading, Maneuvering	10.06 (C)	On-Site	See Plan	Existing No Change
<input type="checkbox"/> Driveways, Width	10.08 (C)	24'	See Plan	Existing N/C
<input type="checkbox"/> Driveways, Location	<input type="checkbox"/> 10.08 (A) <input type="checkbox"/> 10.08 (B)	See Ord. See Ord.	See Plan See Plan	Existing N/C Existing No Change
<input type="checkbox"/> Visibility at Corners	8.27 (E)	Required	See Plan	Existing No Change
<input type="checkbox"/> Accessible Spaces, Number	10.03 (D)	1	See Plan	Existing No Change
<input type="checkbox"/> Accessible Spaces, Dimensions	<input type="checkbox"/> 10.06 (B)	-	-	-
<input type="checkbox"/> Screening/Buffers	<input type="checkbox"/> 6.08 (A) <input type="checkbox"/> 6.08 (B)	N/R	-	-
<input type="checkbox"/> Landscaping	10.07 (G)	Required	See Plan	Existing N/C
<input type="checkbox"/> Signs	<input type="checkbox"/> 9.08 (A) <input type="checkbox"/> 9.09 (B)	- -	- None	- -
<input type="checkbox"/> Fences, Walls	<input type="checkbox"/> 8.27 (B) <input type="checkbox"/> 8.27 (C) <input type="checkbox"/> 8.27 (D)	- - -	None - -	- - -
<input type="checkbox"/> Accessory Structures & Uses	<input type="checkbox"/> 8.29 (A) <input type="checkbox"/> 8.29 (B)	- -	None -	- -
<input type="checkbox"/> Other	-	-	-	-

PARKING SPACE REQUIREMENT:

Building Use	Unit of Measurement	Computation	Spaces Required
Multifamily Dwelling (12 Units)	1.5 per unit	12 units x 1.5 = 18	18
		TOTAL:	18

Additional Information:**DATE OF PLAN SUBMISSION:** September 9, 2020



City of Manchester
Planning & Community Development
One City Hall Plaza-West Wing
Manchester, NH 03101
(603) 624-6475
www.manchesternh.gov

Leon L. LaFreniere, AICP
Director

Pamela H. Goucher, AICP
Deputy Director Planning & Zoning

Michael J. Landry, PE, Esq.
Deputy Director Building Regulations

VARIANCE CRITERIA

Complete this form and attach 10 copies along with any supplemental material that would support your appeal.

Deadline for Next Hearing: _____

Property Location: 97 State Street Map/Lot 0837-0006

Owner: Amoskeag II Apartments, LLC

Address: 722 Chestnut Street Phone #: 603-624-4333

Manchester, NH 03104 Email: jcronin@cbzlaw.com

Applicant: Same as above.

Address: _____ Phone #: _____

Email: _____

Relief Sought From Section(s): 14.02(B)4

1. The variance would not be contrary to the public interest because: see attached

2. The spirit of the ordinance is observed because: see attached

3. Substantial justice would be done because: see attached

4. The values of surrounding properties would not be diminished because: see attached

5. Literal enforcement of the provisions of the ordinance would result in unnecessary hardship if:

(A) Owing to the following special conditions of the property that distinguish it from other properties in the area:

- i. No fair and substantial relationship exists between the general purposes of the ordinance provisions and the specific application of that provision to the property; and
- ii. The proposed use is a reasonable one.

see attached

Or (B) Owing to the following special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

see attached


Applicant Signature

John G. Cronin, Manager
Print Name

09/09/2020
Date

ATTACHMENT TO VARIANCE FOR 97 STATE STREET

Amoskeag II Apartment, LLC (“Applicant”) is the owner of a certain parcel of land located at 97 State Street, Manchester, New Hampshire. The lot is identified in the City of Manchester assessing records as Tax Map 837, Lot 6 (“Property”). The Property is located in the Urban Multi-Family District and the Amoskeag Corporation Housing Overlay (“R-3”) (“ACH”). The building is a former Amoskeag Corporation House that served as a dormitory for mill workers. In or near 1972, The United States Department of Housing and Urban Development acquired the Property, converted it apartment housing and sold in subject to a Housing Assistance Payment Contract (“HAP”).

The Applicant acquired the Property, and neighboring parcels in 2005. The Properties continue to be operated as apartment residences. The building currently has a unit mix of ten units. The breakdown is seven two-bedroom units; one one-bedroom unit; and two four-bedroom units. The four-bedroom units have been ongoing management problems and the strongest market demand is for smaller units. The Applicant proposes to restructure the four-bedroom units to create a one-bedroom unit and a two-bedroom unit. The change will have a net result of two less bedrooms and an increase of two units.

In December of 2018, the ZBA granted the variance requested. The Applicant learned after the variance was issued that the work to convert the units required both units (one above the other) to be vacant due to mechanical and utility issues. The opportunity has not presented where the units have been vacant at the same time to allow the repairs to be completed. The Applicant did not find it proper to evict a family for the sole purpose of executing on the variance.

The standard to extend the time is “good cause.” The Applicant submits good cause exists to extend the variance for two additional years where there has been no change in zoning and no substantial change in the neighborhood.

Sections of Ordinance from which relief is sought:

§ 14.02(B)4 – Extend Variance Duration for Two Additional Years

VARIANCE

1. The proposed use would not diminish surrounding property values because:

The relief has already been granted and a two year extension is requested. The extension will not diminish surrounding property values.

2. Granting the variance would not be contrary to the public interest and would not be contrary to the spirit of the ordinance because:

The extension of time requested variance will not be contrary to the public interest and will not be contrary to the spirit of the ordinance. *Farrar v. City of Keene*, 158 N.H. 684, 691 (2009) (addressing the public interest and spirit of the ordinance elements together). More specifically, the variance, if granted, would not alter the essential character of the area or threaten the public health, safety, or welfare.

The proposed restructuring of the 4-bedroom units to one-bedroom and two-bedroom units will not change the essential character of the neighborhood. Likewise, the mere restructuring of the two units will not create any public health, safety, or welfare issues.

3. Denial of the variance would result in unnecessary hardship to the owner owing to the special conditions of the land because:

(A) No fair and substantial relationship exists between the general public purposes of the ordinance and the specific application to the Property.

The building has been configured differently over the years. The original apartments in the attic have been closed for many years due to insufficient access. The building is existing and cannot be changed in terms of footprint. The density calculation is designed to control mass and scale of buildings. The mass and scale of the building will not change if the variance is granted.

(B) The proposed use is reasonable.

The proposed use is reasonable to allow two additional years to complete the work. It will improve the building without any exterior physical change. The use is consistent and compatible with other uses in the neighborhood.

4. By granting the variance, substantial justice would be done because:

The loss to the applicant, in the event that a variance is denied, outweighs any gain to the general public. Accordingly, substantial justice would be done by granting the requested variance.

A denial of the variance, as suggested above, will undermine the property owner's right to use its property to the highest and best use. By contrast, the denial of the variance would result in little, if any, gain to the public.

Property Location 97 STATE ST
Vision ID 26294

Account # 1452760

Map ID 0837 / / 0006 / /
Bldg # 1

Bldg Name
Sec # 1 of 1

Card # 1 of 1

State Use 1120
Print Date 9/11/2020 12:00:20 P

CURRENT OWNER		TOPO	UTILITIES	STRT / ROAD	LOCATION	CURRENT ASSESSMENT				2017 MANCHESTER, NH VISION						
AMOSKEAG APARTMENTS LLC C/O ELM GROVE PROPERTY MGMT 440 HANOVER ST REAL_OWNERS NH 03104		1 Level	1 All Public	1 Paved	1 Urban	Description	Code	Appraised	Assessed							
		1 Suitable		5 Curb & Gutter		RESIDENTIAL	1120	510,300	510,300							
				6 Sidewalk		RES LAND	1120	175,000	175,000							
SUPPLEMENTAL DATA						Total				685,300	685,300					
RECORD OF OWNERSHIP		BK-VOL/PAGE	SALE DATE	Q/U	V/I	SALE PRICE	VC	PREVIOUS ASSESSMENTS (HISTORY)								
AMOSKEAG APARTMENTS LLC		7441 0481	04-08-2005	U	I	0	1F	Year	Code	Assessed	Year	Code	Assessed			
AMOSKEAG MILLYARD ASSOC		0 0				0		2019	1120	510,300	2018	1120	510,300			
						0			1120	175,000		1120	175,000			
								Total	685300	Total	685300	Total	685300			
EXEMPTIONS			OTHER ASSESSMENTS					This signature acknowledges a visit by a Data Collector or Assessor								
Year	Code	Description	Amount	Code	Description	Number	Amount	Comm Int								
Total			0.00													
ASSESSING NEIGHBORHOOD								APPROAISED VALUE SUMMARY								
Nbhd		Nbhd Name		B		Tracing		Batch		Appraised Bldg. Value (Card)						
603						A				Appraised Xf (B) Value (Bldg)						
										Appraised Ob (B) Value (Bldg)						
										Appraised Land Value (Bldg)						
										Special Land Value						
										Total Appraised Parcel Value						
										Valuation Method						
										Total Appraised Parcel Value						
										685,300						
										C						
										Total Appraised Parcel Value						
										685,300						
BUILDING PERMIT RECORD								VISIT / CHANGE HISTORY								
Permit Id	Issue Date	Type	Description	Amount	Insp Date	% Comp	Date Comp	Comments	Date	Id	Type	Is	Cd	Purpost/Result		
18-00541	11-01-2018	CM	Commercial	54,250		0		Construct two additional dwelli	05-25-2016	SG			98	Field Review		
14-5728	01-02-2015	AD	Addition	8,400		100		strip & reroof of porch only	02-25-2011	DG			98	Field Review		
08-4434	10-16-2008	CM	Commercial	19,000		100		Structural repairs on exterior st	07-16-2007	DC			45	Change		
									09-13-2006	SW			40	Hearing No Change		
									03-22-2006	AM			00	Meas & Int Insp.		
									03-21-2000	CM			07	Meas/Info@Dr		
									05-13-1991				00	Meas & Int Insp.		
LAND LINE VALUATION SECTION																
B	Use Code	Description	Zone	Land Type	Land Units	Unit Price	I. Factor	Site Index	Cond.	Nbhd.	Nbhd Adj	Notes	Location Adjustment	Adj Unit Pric	Land Value	
1	1120	APT OVER 8			16,988	SF	4.97	1.00000	E	0.00	603	1.750		0	0	
1	1120	APT OVER 8			10	BL	10,000	1.00000	0	1.00	603	1.750	APT LAND 10 UNITS@10K	0	17,500	
Total Card Land Units					0.390	AC	Parcel Total Land Area: 0.3902					Total Land Value				
												175,000				

Account # 1452760

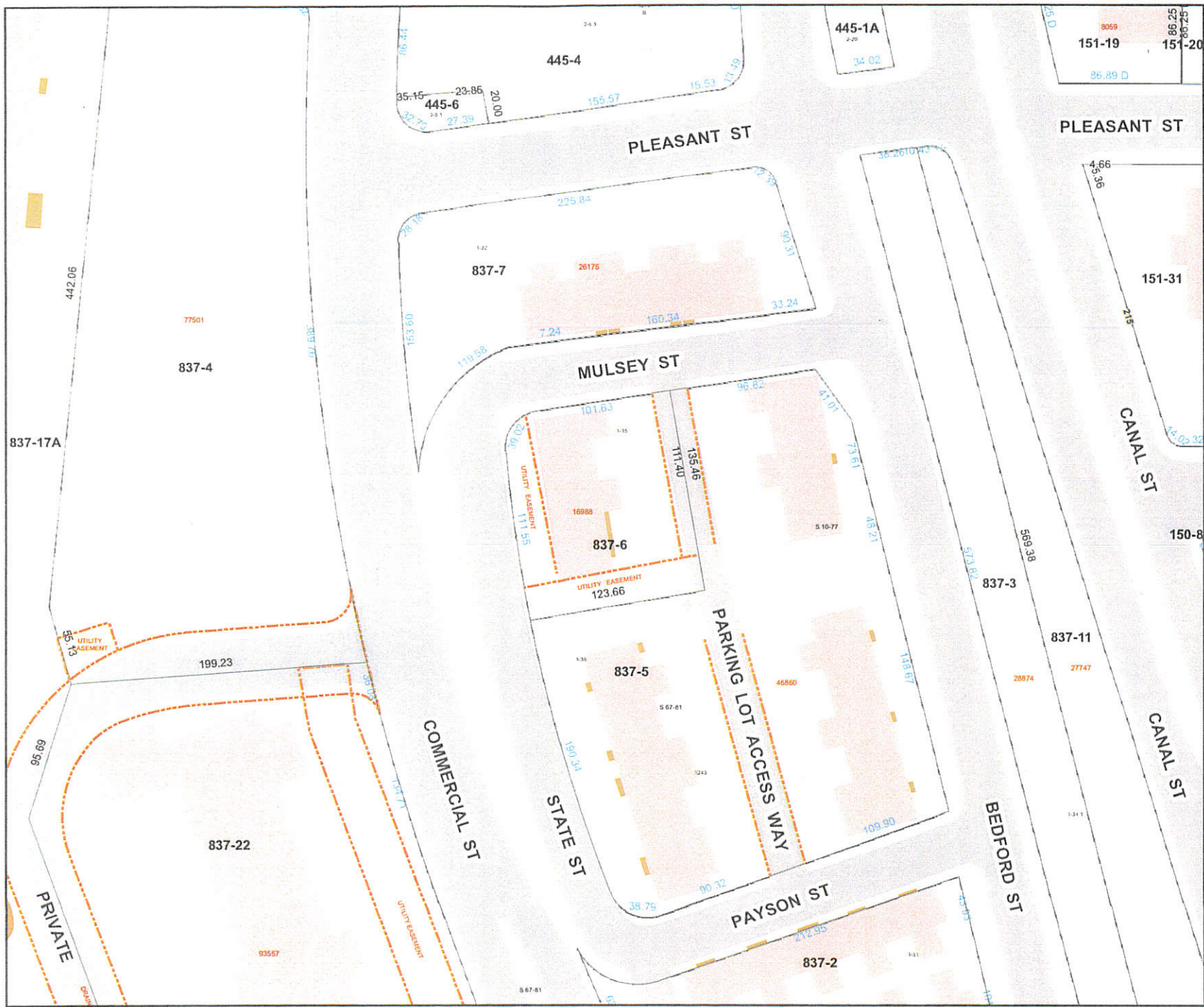
Bldg # 1

Card # 1 of 1

State Use 1120
Print Date 9/11/2020 12:00:22 P

Diagram illustrating a 110-degree fan-out structure for a 36-pin package. The package is represented by a large rectangle with pins 36 on the left and 36 on the right. A central 110-degree angle is indicated. A box on the left contains the text: UHS, FUS (x2), BAS, UBM. A box at the top left contains: 12, 17, 12, FOP (x3), 17. A box at the top center contains: 4, FOP (x20), 4, 110. A box at the top right contains: 3, WDK, 32, 3, FOP. A box at the bottom center contains: 110.

[illegible]



Area Map Showing Extent Of Map At Left

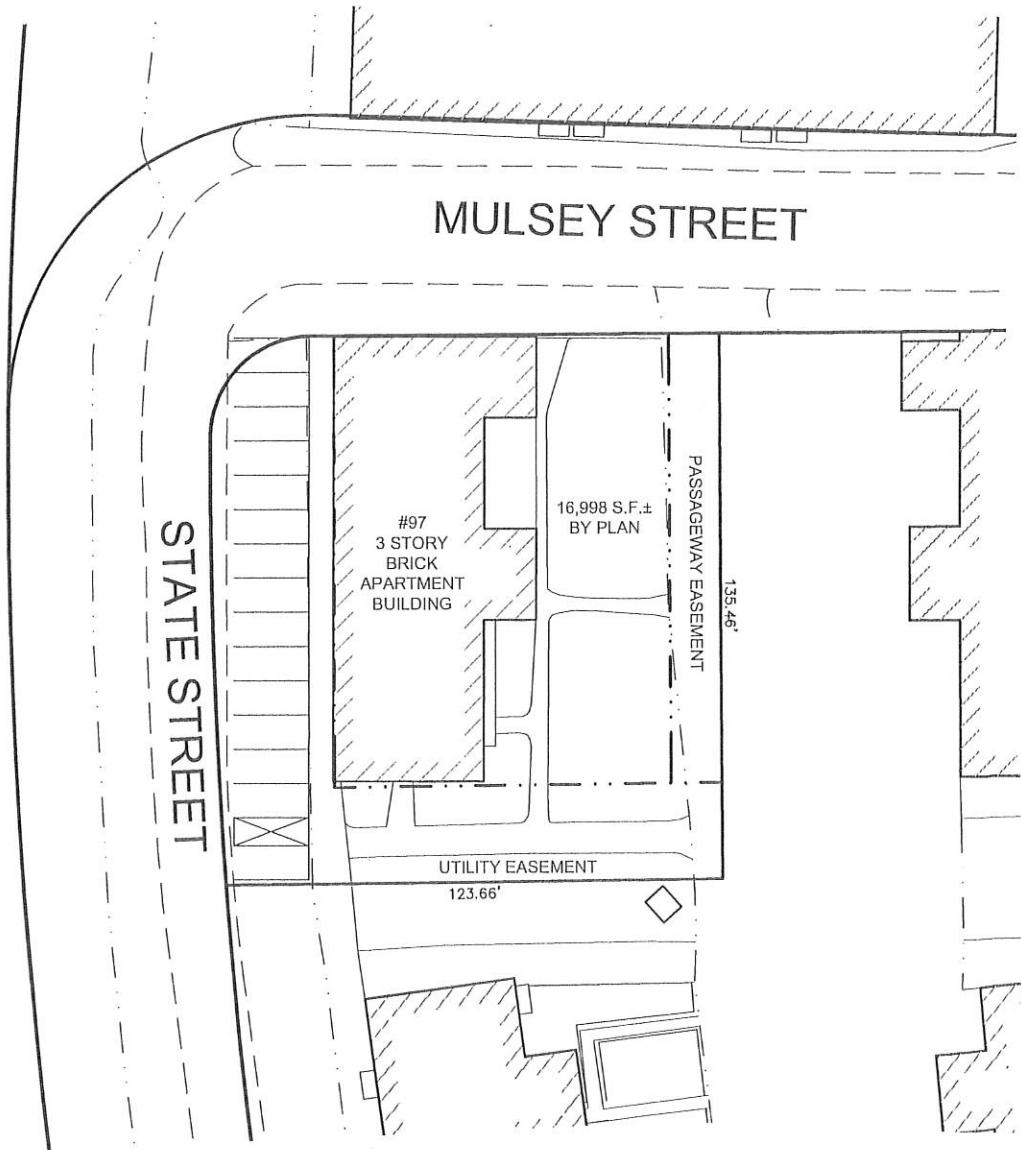
Legend

- Surrounding Towns
- Parcels
- Basements
- Buildings
- TYPE
- BUILDING, MOBILE HOME, OUT BUILDING
- DECK
- FOUNDATION
- OVERHEAD, WALKWAY
- PATIO
- POOL - ABOVE GROUND, POOL - IN-GROUND
- RUIT
- TANK
- Roads
- Lake / Pond
- River
- Wet Area
- STREAM

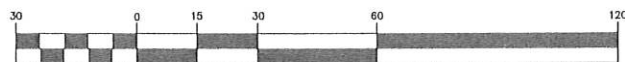
DISCLAIMER

The information appearing on this map is for the convenience of the user and is not an official public record of the City of Manchester, NH (the "City"). This map is not survey-quality. All boundaries, easements, areas, measurements, rights-of-way, etc., that appear are derived from varied data sets which may be individually compiled at different map scales. In such cases, some geographic information from different data sets may appear in inaccurate relationship to each other. Therefore geographic features shown on this map should only be considered approximations, and as such have no official or legal value. The City makes no warranties, expressed or implied, concerning the accuracy, completeness, reliability, or suitability of the information for any particular use. The City assumes no liability whatsoever associated with the use or misuse of this information. The official public records from which this data was compiled are kept in the offices of various City, County, and State government agencies and departments, and are available for inspection and copying during normal business hours. By using this map, you agree to these terms and





GRAPHIC SCALE



(IN FEET)
1 inch = 30 ft.